

HARVEY P. SACKETT (72488)

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Attorney for Plaintiff

HPS/as

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

NINH C. MAI,)	Case No.: 3:22-cv-07344-LJC
)	
Plaintiff,)	STIPULATION AND ORDER FOR
)	THE AWARD AND PAYMENT
v.)	OF ATTORNEY FEES
)	PURSUANT TO THE EQUAL
KILOLO KIJAKAZI,)	ACCESS TO JUSTICE ACT, 28
Acting Commissioner of Social Security,)	U.S.C. § 2412(d)
)	
Defendant.)	

On June 20, 2023, this Court issued an order reversing the final decision of the Defendant, Kilolo Kijakazi, the Acting Commissioner of Social Security (Commissioner), with a remand for rehearing, 42 U.S.C. § 405(g) (sentence four); judgment was entered.

In the interest of administrative and judicial economy, the parties have agreed to stipulate that an award of THREE THOUSAND FOUR HUNDRED DOLLARS AND ZERO CENTS (\$3,400.00) in attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C.

§ 2412(d), is reasonable. This award is without prejudice to Plaintiff's right to seek attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. However, this award shall constitute a complete release from and bar to any claims Plaintiff may have relating to EAJA fees and costs.

After the Court issues an order for EAJA fees to Plaintiff, the Government will consider the matter of Plaintiff's assignment of EAJA fees to Harvey P. Sackett ("Counsel"). Pursuant to *Astrue v. Ratliff*, 560 U.S. 586 (2010), the ability to honor an assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA is entered, the Government will determine whether they are subject to offset. Fees shall be made payable to Plaintiff, but if the Department of Treasury determines Plaintiff does not owe a federal debt, then the Government shall cause the payment of fees, expenses, and costs to be made payable directly to Counsel, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered and made payable to Counsel.

Accordingly, Defendant agrees to pay Plaintiff \$3,400.00 in attorney's fees. Pursuant to 28 U.S.C. § 1920, Defendant shall also reimburse Plaintiff \$402.00 in costs for the filing fee to commence this action.

All parties whose signature lines appear in this document have consented to its filing. This award is without prejudice to the rights of Sackett and Associates and/or Harvey P. Sackett to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Dated: July 25, 2023

SACKETT AND ASSOCIATES

By: /s/ HARVEY P. SACKETT
HARVEY P. SACKETT
Attorney for Plaintiff
NINH C. MAI

1 Dated: July 25, 2023

ISMAIL J. RAMSEY
United States Attorney

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3 By: /s/CASPAR CHAN
CASPAR CHAN
4 Special Assistant United States Attorney
5 Attorney for Defendant
6 [*As authorized by email on 7/25/23]

7 **ORDER**

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9 Pursuant to the stipulation, IT IS SO ORDERED.

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11 Dated: July 28, 2023


12 LISA J. CISNEROS
13 United States Magistrate Judge
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